

Being a comical and remarkable Tryal that was try'd on *Thursday* the 30th of *April* 1741, at the Court of *Common-Pleas* at *Westminster*. Wherein a noted *Baker* not a Mile from *Grosvenor-Square* was Plaintiff, and an eminent *Joyney* in that Neighbourhood Defendant, the *Baker* having brought an Action of 1000*l.* against the *Joyner* for having Criminal Conversation with his Wife, when the *Baker* was Nonfuit, and obliged to put his *Horns* in his *Basket*. *England. Common Pleas, Court of*

NOTHING is more certain, than that at all Times, and in almost all Countries, Men will be guilty of some silly and foolish Action; and that this Kingdom doth abound with such People, we have many Instances of daily, both amongst the meaner Sort, as well as those of a more distinguished Character, will as appear, if we but read the Publick Papers.

It is several Years since we have heard of any Trials at Law relating to Cuckoldom. The famous Trial of the Mercer of *Aldgate* was the first Thing of that Sort that raised the Attention of the Town, and several others followed, and the last, of any Consequence, was the Affair of our celebrated Comedian, which made a greater Noise amongst People in high Life than any Thing of the Kind had ever done.

We are now to entertain our Readers with a very entertaining Tryal, or rather an Account of an Affair, which has lately happen'd between a Baker nam'd *L—*, who lives not a Mile from *Audley Street* near the *Road*, and Mr. *N—*, a young Gentleman in the Neighbourhood, who is said to be a Joyner, and very considerable in his Way.

The Baker, not long since, brought an Action, in the Court of Common Pleas at *Westminster* against the Joyner, and laid his Damages at not less than 1000*l.* for the latter's having criminal Conversation with the former's Wife, when this Action was executed, and the Joyner arrested, it came to the Ears of his Father, who, rather than have his Son expos'd, offered the Baker one hundred Pounds, on Condition that he would draw General Releases, but this the honest Baker would not consent to, being pretty well perswaded that he should obtain a Verdict in his Favour whenever the Cause should be brought to an Issue. As nothing could be done to accommodate the Matter in an amicable Manner, each Party prepar'd for the Issue, so that on *Thursday* the last Day of *April* (pity it had not been the first Day of that Month, for mainly the Baker came on a Fool's Errand) the Tryal was brought on at the Bar of the Court of Common Pleas in *Westminster-Hall*.

There were five Gentlemen learned the Law retained on each Side, to plead the Cause of their Clients, and the Council for the Plaintiff began first, and Stated the Affair to the Court and the Gentlemen of the Jury.

These Gentlemen explained, by very learned Arguments the Nature of the Affair, and shew'd how detrimental it was to human Society that Persons who had offended as the Defendant had done should not pay for it, since it was doing the Plaintiff the greatest Injury that a Man could sustain; in defiling his Bed, and lessening the Esteem which a Woman ought to bear to her Husband, as must naturally be the Case in Things of this Kind. We shall prove, Gentlemen, (said one of the Council) that the Defendant at several Times, and particularly in the latter End of the Month of November, and the beginning of December last, has been seen in Bed with the Plaintiff's Wife, and that they have for above three Years past carried on a Correspondence together to the great Detriment of the Plaintiff. And we doubt not, but we shall make it very plainly appear that this Action is founded on Equity and good Conscience, and that the Plaintiff has been a great Sufferer by these unlawful Intrigues of his Wife and the Defendant, which have, from Time to Time been carried on without the Knowledge or Consent of the Plaintiff; and therefore we hope, as all these Things will be made very evident to the Court and the Gentlemen of the Jury, you will find a Verdict for the Plaintiff accordingly.

As soon as the Plaintiff's Council had done speaking, then the Council for the Defendant began and spoke to the Effect following.

May it please your Lordship, and you Gentlemen of the Jury, I am Council for the Defendant, and have heard what has been advanced by my Brother on the other Side of the Question. You will find, Gentlemen, that the Defendant's having criminal Conversation with his Neighbour's Wife is but too plain, and it will also come out in Evidence, in what Manner the Defendant was admitted to take these Freedoms. Indeed, Gentlemen, if my Brief informs me right, he



had the Authority of the Husband, and in all Likelihood the Consent of the Woman. If he had taken these Liberties without the Husband's Consent, then the Law would have relieved the Husband, and given such Damages as the Court and Jury thought proper; but if a Man shall consent that his Neighbour shall take a Night or two's Lodging with his Wife, and the Woman be willing, it cannot be supposed that the Law can affect this Person. The Woman indeed, is in the Disposal of her Husband, and ought to do all Things lawful which he commands her: This was an illegal Act, but if the Woman consented, and Parties agreed, I cannot see where the Justice of an Action can be. There is an Action brought, and I suppose with no other Intent than to draw a Sum from the Defendant, who I do not apprehend has offended in such a Manner as the Plaintiff sets forth. However, if he has been in Bed with the Plaintiff's Wife, it was by his Consent, and this we shall prove by several Witnesses.

Then the Witnesses were call'd on the Behalf of the Plaintiff, and were severally examined.

It appeared throughout the whole Course of the Evidence for the Plaintiff, that there was a more than ordinary Familiarity between the Plaintiff's Wife and the Defendant; and one Witness depos'd, that she had seen them in Bed together; that she heard the Bed jumble two or three Times, and being in a Chamber beneath the Bed-room thought the Ceiling would have fell down, and that when she went to make the Bed in the Evening, she found two of the Bed-Cords broke. The Council asked this Evidence two or three Questions, whether she knew the Defendant very well, and if he used to come frequently to the Plaintiff's House. She reply'd, She knew him very well, and that he us'd to kiss the Plaintiff's Wife oftner than her Husband.

Another Witness depos'd, That about three Weeks before last Christmas, the Plaintiff went to Church in the Forenoon, but had not been gone long before he return'd, and said it was very cold, and he would go up Stairs for his Gloves. That he went up Stairs accordingly and catch'd the Defendant in Bed with his Wife. That the Defendant seem'd much surprized on his being detected in his Amours, and ask'd Pardon of the Plaintiff.

Here they endeavour'd to prove, that the Plaintiff had been offered a Sum of Money to hush up the Matter, and not to carry on this Suit against the Defendant, but they could not come up to a plain Proof of it. It appear'd indeed, that the Father of the Defendant, not caring to have the Matter come before a Court, and expose both the Parties, had propos'd to leave it to Reference; or if the Plaintiff thought proper he would give him a hundred Pound. It also appeared, that the De-

fendant should say in Company, that if the Baker got a hundred Pound, he would hardly have a Penny a Time for every Kiss he had given his Wife.

Council. Pray, after the Defendant had been catch'd in the Plaintiff's Bed, did he never visit the Woman again.

Evidence. Yes, and they were as great as ever. The Plaintiff's Wife said she lov'd him, for that he was handomely provided.

Council. And did the Plaintiff and the Defendant quarrel on this, so as not to be in Company with each other.

Evidence. They did not seem to be at Variance till after the Plaintiff had commenced this Suit.

Council. Did the Baker never complain about this Usage?

Evidence. He us'd now and then to grumble, and tell his Wife he thought he could do her Business as well as another; she us'd to tell him, he might if he would, and as often as he pleas'd; and said, how can you be angry, if I grant a Favour you are never the worse for it. And that he us'd to reply, that's true enough, for there's no missing a Slice of a cut Loaf. I find there's enough, for one whenever you come. And she us'd to say, Ay, ay, you may cut and come again Husband. That he then said, she was a good Girl, and that Mr. *N—*, was very good too, but that he us'd to come to often.

It appear'd that the Defendant had been several Times in Bed with the Plaintiff's Wife; but to prove that it was by his Consent, a young Woman, who had lived as a Servant with the Baker, at the Time the Defendant was so frequently there, was called, and gave the following Deposition.

Council. Pray Child acquaint the Court what you know of the Defendant's coming to your Master's House.

Evidence. I knew Mr. *N—*. He us'd to come frequently with my Master. I have seen him kiss my Mistress in my Master's Presence, and Squeeze her, as if he would take her breath away. I thought it a little odd; but thinks I, if my Masters likes it what Business have I to trouble my Head. My Mistress seem'd to like it very well, and my Master did not seem displeas'd. They would sit down and drink and smoke a Pipe together, and every now and then Mr. *N—*, would give my Mistress a Pat on the Bubby, and then she would bid him be quiet, but yet I thought she seem'd not to be angry, and I could not imagine the Meaning of all this, but I found out more by and by, for one Night my Master and Mr. *N—*, came home together a little in Drink, and sat a little below. Mr. *N—* was a good natur'd Man and they talk'd together, and both went up Stairs into my Mistress's Bedchamber, she having been gone to bed near upon two Hours,

I thought it a little odd, that a Man should go up Stairs, and was curious enough, soon after they went up, to go and peep through the Key hole of the Chamber Door, and then I saw —

Coun. What did you see, Child? — Don't be aham'd nor afraid to speak the Truth.

Evidence. Why, — my Master pull'd down the Bedclothes, and my Mistress was fast sleep. Mr. *N—* stood by the Bedside, and when my Master had uncovered my Mistress he pointed to her —, and said, there you little Rogue, if you love your Belly there's eating for you my Boy. There's a fine young Doe.

Council. And what pass'd then, Pray give an Account of it?

Evidence. Then they all went to Bed, and they afterwards got up and danc'd a Minuet, I suppose, for they were jumping about the Room. Mr. *N—* cut a Caper exceeding well, and my Mistress danc'd a good Stick, I think.

There were several obscene Things mentioned, but for Modesty's Sake, we shall omit them, and only mention what cannot be avoided.

Council. Pray did Mr. *N—* lye at your Master's House all Night.

Evidence. Yes, I believe he did; for I went to Bed, and saw no more of him that Night, for when the Candle was put out, I could nor see what Work was going forward.

Council. Did you ever see him after that Night?

Evidence. Yes, often afterwards; and I believe they have been at the same sport many Times since; and when my Master has been there, he would kiss and bill her, and my Master would say you are a Wag, Dick, and when he was kissing her once, My Master call'd out O, you Rogue, what are you doing. — Come off my Mother, Sirrah: — And then laugh'd. My Mistress us'd to praise Mr. *N—*, and say, her Husband knew of their Familiarity, and what had any Body else to do with it.

After the young Woman had gone through her Evidence, then a Man was call'd, who being sworn, spoke to the Effect following.

Council. I think, Sir you liv'd as a Journeyman with Mr. *L—*. Pray give an Account what you know concerning the Defendant's being in Bed with your Mistress.

Evidence. I liv'd some Time there, and have seen Mr. *N—* very frequently in my Master's House. My Master and he always appear'd good Friends, but I think my Mistress us'd to like him best; for I have seen him kiss her till both their Ears have crack'd, but you know this was nothing to me; if they lik'd it I did; but I must own it sometimes set my Chops a watering.

Council. But did you know any thing of your Master and Mistress being in Bed together, and Mr. *N—* with them? Pray give an Account of that?

Evidence. I have seen them all three in Bed together, and I went once up Stairs in the Night Time to ask my Master some Questions about setting the Batch of Bread, and he was asleep, but Mr. *N—* and my Mistress were both awake. I saw them all in Bed, and Mr. *N—* popp'd down his Head, but he need not to have been so shy, for I knew how the Game went as well as they did.

Council. Are you sure your Master was in Bed at that Time.

Evidence. That he was; for I wak'd him, and spoke to him; and he gave me some Directions about making some Half Peck Loaves. I am certain of this, and my Master was as sure in Bed, as I ever made a Loaf in my Life.

Council. Did ever you see them in Bed after that Time?

Evidence. Yes, yes, that I have. I saw them in Bed about last Christmas Time. I think it was a little before the Holidays.

Here another Witness was call'd.

Council. Well, Sir, what can you say relating to this Affair?

Evidence. I know both Parties, and have seen them drinking together, and when the Plaintiff has been fuddled, he has asked Mr. *N—* to go home with him. Here the Witness related some Words spoken by the Plaintiff, which for Modesty's Sake we shall omit.

Then a Person belonging to the Life Guards was examined, and gave a very full Account of the whole Affair, and some Words that the Plaintiff mentioned to him, as if he was satisfy'd with the Defendants kissing his Wife, &c. because he said he was a good civil young Fellow, Strong-back'd, and fit for the Purpose. After a full Hearing the Plaintiff was nonfuit.

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